IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WEALTH TAX APPEAL NO 528 OF 2001

The Commissioner of Wealth Tax Bombay City-VII)..Appellants

Versus

D.S.Seth & Sons (HUF))..Respondent

Mr.P.S.Sahadevan for the appellants.

Coram : F.I.Rebello & R.S.Mohite,JJ

Date : 12.12.2007.

PC

1. The revenue has preferred this appeal on the following question of law :-

> " Whether on the facts and in the circumstances of the case, the Tribunal was justified in law in holding that the security deposit received by the assessee is a liability & should be deducted from the total value of the asset while determining the net wealth of the assessee, though the liability was incurred in relation to an asset which is not included in the net wealth ?

2. We have perused the order of the Tribunal. We find in respect of the flat the assessee i.e.

respondent herein is only the lessee and which flat was sublet. The appellant received Rs.60 lakhs by way of security which was refunded on 24.4.1991. In respect of security deposit from Royal Consulate of South Arabia, it was for the period 1.7.1987 to 30.6.1990. The Tribunal noted that till the valuation date period of agreement was not over and therefore, there was no question of any right to forfeit the security deposit and the assessee will get the security only when lessee does not vacate the property after the period of agreement. Assessee pointed out that in the next year out of Rs.15 lakhs Rs.8,50,000/- were forfeited and the same were included in the capital account of the assessee and thus shown in the wealth-tax in the next year. However, till 31.3.90 i.e. the valuation date for assessment year 1990-91 the liability did exist and therefore, the assessee was justified in showing the same as liability.

3. Considering these facts the Tribunal recorded the finding and dismissed the appeal. In our opinion this is clearly a finding of fact apart from that section 2A of the Wealth Tax Act would not be attracted. Consequently, appeal accordingly dismissed.

(R.S.Mohite,J) **(F.I.Rebello,J)**